IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 322 OF 2006

Madhavrao Rambhau Naikodi
& Ors. ... Appellants

Versus

Shri Gajanan Rakhmaji Pansare ... Respondent

Mr. N.R. Bubana i/b Ms. Meenal Bhate for the Appellants

CORAM : S.R. SATHE,J.

DATED : 15/12/2006

P.C. :-

1. Heard learned Advocate for the Appellants, the original plaintiffs. From the perusal of the record it is very clear that suit filed by the plaintiff was for reconveyance and possession of the property, admittedly sold by him to the defendant on 28-1-1976. The trial Court negatived all the allegations made by the plaintiff and dismissed the suit. The first appellate court confirmed the said order.

2. The learned Advocate for the Appellant argued before me that sale deed executed by plaintiff in favour of defendant is void in view of the provisions of Section 47 of the Maharashtra Co operative Societies Act and as such he is entitled to get back the property.

3. It must be noted that it was in fact the plaintiff's case that he sold the property as he wanted to clear the loan of society. From the record it does appear that he has in fact accordingly subsequently paid the said loan in the year 1984. Admittedly at no point of time Society had raised any objection for transaction in question and it is only after the time plaintiff had in fact repaid the loan, he filed the present suit in the year 1992. That itself shows the ill-intention of the plaintiff in filing the said suit. When the plaintiff was in fact aware of the fact that the property in question was having charge of the society he should not have induced the defendant to purchase the said property but he did so and thereafter now he is trying to take advantage of his own wrong. At present there is no charge of the society on the suit property. It is needless to say that now he has taken such stand because there is increase in the value of the suit property. Allowing plaintiff in the above

circumstances after 16 years to claim back the property would in fact amount to abuse of the process of law.

4. All these aspects have been considered by the courts below. I do not find that there is any error in law in the order passed by the first Appellate Court. So under such circumstances the appeal is dismissed in limine.

(S.R.SATHE,J.)